

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 4015P118WO-VH/bj	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2002/007206	International filing date (day/month/year) 29 June 2002 (29.06.2002)	Priority date (day/month/year) 18 July 2001 (18.07.2001)
International Patent Classification (IPC) or national classification and IPC F16F 9/05		
Applicant PROGRESS-WERK OBERKIRCH AG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.  <input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of _____ sheets.
3. This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 23 January 2003 (23.01.2003)	Date of completion of this report 03 November 2003 (03.11.2003)
Name and mailing address of the IPEA/EP  Facsimile No.	Authorized officer  Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2002/007206

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_ 1-15 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages \_\_\_\_\_ 1-9 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the drawings:  
pages \_\_\_\_\_ 1/2-2/2 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/EP 02/07206**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims	1-9	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-9	NO
Industrial applicability (IA)	Claims	1-9	YES
	Claims		NO

**2. Citations and explanations**

This report makes reference to the following documents:

D1: DE-A-199 52 919

D2: DE-U-87 08 507.

**A)**

**Claims 1 and 6 do not meet the PCT requirements for inventive step (PCT Article 33(3)):**

Figure 1 of D1, which is regarded as the closest prior art, shows a pneumatic spring pot 3 having a pot wall (side wall of pot 3), a base (top of Figure 1) connected to the pot wall, and a first annular flange (lower boundary of pot 3 in Figure 1) opposite the base and connected to the pot wall, the first annular flange (lower boundary of pot 3 in Figure 1) having a smaller diameter than the largest diameter of the pot wall, the base, pot wall and first annular flange being integrally formed, and the base having a second annular flange (top of Figure 1) that is integral therewith.

The pneumatic spring pot denoted by 3' in Figure 2 of D1 likewise has the above features:

D1, however, does not fully disclose how the pneumatic

spring pot 3 is produced. Although the individual feature concerning the one-piece design is known from D1, as stated above, the following combination of features (p) is not known:

(p) that the base, the pot wall and the annular flange are formed from a sheet bar by means of sheet-metal forming such that the first annular flange is formed from the outer edge area of the sheet bar, and that the base has a second annular flange that is integral with the base.

Feature (p) of Claim 1 is merely one of several obvious possibilities from which a person skilled in the art would choose according to the circumstances in order to supplement the teaching of D1 with respect to a possible way to manufacture the pneumatic spring pot 3, without thereby being inventive (cf. PCT Guidelines, Chapter IV-8.8. (A1)(i)). In this context, attention is drawn to the fact that it can be assumed that a person skilled in the art of manufacturing processes can be regarded as a specialist who is called upon to solve the problem, or as belonging to a group of specialists called upon to solve the problem (cf. PCT Guidelines, Chapter IV-8.6).

It is generally known that a pneumatic spring pot can be manufactured as a deep-drawn part, a fact which is already documented in D2, for example (page 1, beginning of the last paragraph). Consequently, it can be assumed that a person skilled in the art would also apply this as a possible solution to the pneumatic spring pot shown in Figure 1 (or, equally, to that shown in Figure 2).

Furthermore, on the basis of their shape, the pneumatic spring pots shown in Figure 1 and Figure 2 render it obvious to consider deep-drawing and, if manufactured as deep-drawn parts, they would necessarily include the

features (p), in particular, the first annular flange (to which the U-bellows in Figure 2 is fixed) would, in both cases, necessarily be formed from the outer edge area of the sheet bar.

The line of reasoning applied to Claim 1 can also be applied to Claim 6, which repeats the features of the pneumatic spring pot as steps of a manufacturing process. Accordingly, Claim 6 likewise fails to meet the PCT requirements for inventive step (PCT Article 33(3)).

B)

Claims 2-5 and 7-9 contain no features which, in combination with the features of any claim to which they refer, meet the PCT requirements for inventive step. The reasons therefor are the following:

The additional features of Claim 2 are apparent from the above description of an obvious process for manufacturing the pneumatic spring pot according to D1.

The additional features of Claim 3 describe the device "pneumatic spring pot" in terms of the features of the process by means of which it is produced. Therefore, contrary to PCT Article 6, the intended restrictions are not clear from the claim. The features could be interpreted as being "**formable** by rolling, pressing or drawing", which is a feature that also applies to the pneumatic spring pots shown in Figure 1 or Figure 2 of D1. With respect to the additional features of Claim 4, i.e. the diameter ratio, it is assumed that a person skilled in the art could be expected to select such a parameter as necessary, without thereby being inventive.

With regard to the additional features of Claim 5, it is pointed out that the surface treatment of the pneumatic

spring pot does not meet the PCT requirements for inventive step (PCT Article 33(3)), in particular since it is a matter of standard practice for a person skilled in the art to provide a surface treatment.

The additional features of **Claims 7-9** relate to minor modifications of the method according to Claim 6 that would be straightforward for a person skilled in the art, especially since the resulting advantages are readily foreseeable. Consequently, it appears that the subject matter of **Claims 7-9** likewise fails to meet the PCT requirements for inventive step (PCT Article 33(3)).

ATTACHED: DE-U-87 08 507.